

Regular Session, January 19, 2010, 7:00 p.m.
Catawba County Board of Commissioners

Appointments

Town of Catawba Planning Board	507	01/19/10
Fireman's Relief Fund, Volunteer Fire Department Board of Trustees	507	01/19/10
Nursing and Rest Home Advisory Board	507	01/19/10

Closed Session

Attorney Client Privilege/Economic Incentives/Personnel Issues	520	01/19/10
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IBT

Settlement Agreement	510	01/19/10
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Litigation

IBT Settlement Agreement	510	01/19/10
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Public Health

Kids in Need Budget Revision	507	01/19/10
Bioterrorism Budget Revision	507	01/19/10

Resolution

IBT Settlement	510	01/19/10
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Social Services

2008-09 Community Child Protection Team Annual Report	508	01/19/10
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Tax

Refund Request	507	01/19/10
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Utilities and Engineering

Memorandum of Understanding with University of NC at Charlotte	504	01/19/10
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The Catawba County Board of Commissioners met in regular session on Tuesday, January 19, 2010 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse in Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Lynn M. Lail and Commissioners Dan Hunsucker, Glenn E. Barger and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Lee Worsley, Assistant County Manager Dewey Harris, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Glenn E. Barger led the Pledge of Allegiance to the Flag.
3. Commissioner Dan Hunsucker offered the invocation.

Chair Barnes amended the order in which agenda items would be heard to accommodate guests who needed to travel back to Charlotte after the meeting.

4. Vice-Chair Lynn Lail made a motion to approve the minutes from the Regular Meeting and Closed Session of December 21, 2009. The motion carried unanimously.

5. Recognition of Special Guests: Chair Barnes welcomed all present. She recognized Cole Hayes and Vince Johnson, Scouts from Troop 250, who were working on their citizenship badges, Leroy Lail and Dr. Phillip DuBois and his colleagues from the University of North Carolina at Charlotte. Chair Barnes later in the meeting recognized the new reporter for the Observer News Enterprise, Jordan Ashley Baker.

Chair Barnes then asked that Utilities and Engineering Director Barry Edwards come forward to present his Departmental Report.

Mr. Edward presented a request for the Board to execute a Memorandum of Understanding (MOU) with the University of North Carolina at Charlotte, through which UNC-Charlotte will perform research at the Catawba County EcoComplex on alternative technologies and business practices to reduce landfill operating costs and waste volume, and improve waste processing. Mr. Edwards introduced UNCC Chancellor Phillip DuBois and his colleagues who were present. With the execution of this MOU the County's EcoComplex will become an off-campus component of the UNCC Energy Production and Infrastructure Center (EPIC), and supplement the university's Infrastructure, Design, Environment, and Sustainability (IDEAS) Center, and North Carolina Motorsports and Automotive Research Center (NCMARC). The EcoComplex will provide UNCC research faculty and students with the space and physical resources needed to demonstrate and test sustainable alternative technologies for energy generation, waste processing, and waste reduction.

EPIC is a planned research endeavor between the University and private partners. Its goal is to expand energy engineering and energy research in the region based on industry needs. Private partners in this effort include Duke Energy, Shaw Group, AREVA, the Electric Power Research Institute, URS Washington Group, Westinghouse, Siemens, and Metso Power. UNCC's IDEAS Center is a research center focused on accelerating change. It seeks to hasten the move from unsustainable infrastructure, housing, and technology design to ideals and practices more in tune with the challenges of today's changing world and environment. Faculty includes representatives of civil, mechanical, electrical and systems engineering, architecture, biology, business, chemistry, geography and earth science, psychology, public health and sociology.

As an off campus component of EPIC, the IDEAS Center, and NCMARC, the EcoComplex will play an integral role in improving energy efficiency and society's interaction with the man-made and natural environments. UNCC will focus its research on several areas including syngas (a mixture of carbon monoxide and hydrogen), algae and wood ethanol. In the future, the University's research would expand to include using various types of animal waste as a renewable energy source. The MOU will allow the University and County to expand their relationship through future research components.

The initial research components included with the Board's approval of the MOU will be wood ethanol, wood waste gasification, syngas, algae, soil amendment, and animal waste to energy. Wood ethanol research will be done in a small 12 foot by 12 foot structure using wood waste supplied by Catawba County, including waste from EcoComplex- based Pallet One and Gregory Wood Products, and land clearing debris, furthering the use of wood as a renewable energy source in making ethanol as well as the diversion of certain types of woody waste from the landfill. Gasification, a method of extracting energy from different types of organic materials, converts carbon-based materials into syngas, which can be used to produce green electricity. This research project will include partnering with General Electric and Nexterra. The technology employed will remove tar from syngas so it can be used to power an electricity-producing internal combustion engine, similar to those found at the County's landfill gas-to-energy facility.

Algae have high oil content and are therefore a possible source of renewable energy. UNCC will grow algae in a small greenhouse (less than or equal to 1 acre in size) utilizing carbon dioxide from the landfill gas-to-energy generators to speed the plant growth process. This research will help determine the best way to harness the energy from the algae. In addition, UNCC is currently doing research to ascertain whether sheetrock, like algae, can add value to soil during crop growth. Test plots of biodiesel feedstock crops are being grown at the Blackburn Landfill in a soil mixture

containing crushed sheetrock. If the sheetrock adds positive nutrient value back to the soil, this could provide an avenue for recycling sheetrock and diverting it from the County's Construction and Demolition Landfill.

Research on the use of various types of animal waste as an energy source will be the focus of future research at the EcoComplex. UNCC has already started preliminary research, using bovine waste collected from a farm in Catawba County. Researchers are using various types of fungi to help break down the waste and possibly control odor. County staff is exploring a possible bartering arrangement through which farmers would provide waste to the County and the County, in turn, would provide an animal feed using the feedstock meal by-product created during the crushing of seeds for biodiesel production.

Chancellor DuBois came forward to thank the Board for the opportunities this MOU represents.

Chair Barnes noted that most people do not understand the budgetary issues of running a landfill – and that is was very costly to operate and the County was fortunate to have done a very good job to make the County's landfill exceptionally efficient. The Board felt the County should go a step beyond in the future and this MOU moved in that direction and create green jobs while holding the costs of the operation of the landfill down – to benefit our citizens.

Commissioner Barger made a motion to execute the Memorandum of Understanding with UNCC. The motion carried unanimously. Chair Barnes and UNCC Chancellor Phillip DuBois ceremoniously signed the Memorandum of Understanding after the Board voted to enter into this agreement.

The following MOU applies:

MEMORANDUM OF UNDERSTANDING
between CATAWBA COUNTY and
UNIVERSITY OF NORTH CAROLINA at CHARLOTTE

THIS AGREEMENT ("Agreement") is made on the _____ day of _____, 2010, by and between The University of North Carolina at Charlotte, hereinafter ("UNIVERSITY") and Catawba County EcoComplex, hereinafter ("COUNTY").

RECITALS

A. The UNIVERSITY Energy Production and Infrastructure Center (EPIC), Infrastructure, Design, Environment, and Sustainability (IDEAS) Center, and North Carolina Motorsports and Automotive Research Center (NCMARC) desire space and physical resources to demonstrate and test sustainable alternative technologies for energy generation, waste processing, and waste reduction.

B. The COUNTY desires to implement alternative technologies employing industrial ecology to reduce landfill operating costs, reduce waste volume, reduce waste processing, and/or convert waste to a productive resource utilizing Catawba County's Regional EcoComplex in alignment with Catawba County Board of Commissioner Goals.

NOW, THEREFORE, UNIVERSITY and COUNTY, in consideration of the mutual covenants, premises, conditions, and terms to be kept and performed, do hereby agree as follows:

1. COUNTY hereby grants permission to UNIVERSITY to use properties within County's EcoComplex, particularly an accessory structure, approximately 12 feet x 12 feet, after the structure is built and a Certificate of Occupancy has been issued, as an environmental testbed during the term of this Agreement. Each proposed research activity shall be described on a separate attachment to this Agreement, Appendix A.n, numbered A.1, A.2 and so forth. COUNTY shall review Appendices A.n and approve or reject proposed research activities prior to implementation at COUNTY.

2. The term of this Agreement will be two years, beginning on the date first written above and ending on _____. Thereafter, this Agreement will continue on a year-to-year basis, not to exceed ten (10) years, until terminated by one of the parties in accordance with Paragraph 3.
3. Either party may terminate this Agreement at any time, without penalty or cost of any kind, on 60 days written notice to the other party.
4. During the term of this Agreement, UNIVERSITY may use the designated structure without payment of rent or other charge.
5. COUNTY will provide basic utility services to UNIVERSITY for its activities under this Agreement, and there will be no charge to UNIVERSITY for such utilities.
6. UNIVERSITY may, at its own expense, add signage or logos indicating its presence at the property. All such signage and logo use must be approved in writing by County prior to installation and comply with any applicable sign laws or ordinances.
7. In the performance of this Agreement, UNIVERSITY will abide by the applicable directives of authorized public officials and obey all laws, including, but not limited to, zoning regulations of local government regarding construction and development, including all applicable permit requirements.
8. UNIVERSITY will retain publication rights for any data generated and will maintain intellectual property rights for any inventions resulting from UNIVERSITY research activities at COUNTY property under this Agreement.
9. UNIVERSITY shall not be liable for any damage to or loss of any equipment or other property of COUNTY unless such loss or damage results from the negligence of UNIVERSITY, and then only in the manner and to the extent provided by the North Carolina Tort Claims Act, N.C.G.S. 143-291 *et. seq.*

IN WITNESS WHEREOF and intending to be bound by its terms and conditions, UNIVERSITY and COUNTY have caused this Agreement to be signed by their authorized representatives below and executed the day and year first above written.

Catawba County Board of Commissioners

Seal

By: _____
Katherine W. Barnes, Chair
Catawba County Commissioners

Attest

County Clerk

University of North Carolina at Charlotte

Seal

Attest:

By: _____
Dr. Philip L. DuBois
Chancellor

6. Public Comments for Items not on the Agenda:

Mr. Justin Hartman of Conover came forward to bring up the issue of licensing of animals and concern of over- population of animals in the County. He suggested differential licensing and felt the cost of the license, which would be renewed on an annual basis, would cover the cost of staffing required to enforce the license requirement. Board members indicated most differential licensing programs exist in cities, and not in counties with large rural areas. Mr. Hartman indicated Buncombe County has a differential licensing program. The Board directed the Animal Services Manager to research Buncombe County's program as well as others that may exist in North Carolina counties and report to the Board on his findings.

7. Appointments.

Commissioner Barbara Beatty recommended the reappointment of Clyde Robinson for a third term and Rick Young for a second term on the Town of Catawba Planning Board. These terms will expire on December 1, 2012. Commissioner Beatty also recommended the appointment of Bruce Godfrey for an unexpired term on the Volunteer Fire Department Board of Trustee's Fireman's Relief Fund. Mr. Godfrey will represent the St. Stephens Fire Department and replace Wes Starnes who resigned from this Board. Mr. Godfrey's term will expire on December 31, 2011. Vice-Chair Lynn Lail recommended the reappointment of Jean Bush, William Knox, Elenor Pender and Reverend Frederick Pender for second terms on the Nursing & Rest Home Advisory Board. These terms will expire on March 16, 2013.

These recommendations came in the form of a motion. The motion carried unanimously.

8. Consent Agenda:

County Manager J. Thomas Lundy presented the following three items for Board consideration:

a. A request for the Board to approve the transfer of \$20,000 to the Kids In Need (KIN) Fund from funds given in prior years to Catawba County Public Health to be used when needed by the KIN program for medical, dental and other authorized needs of eligible children. The KIN Fund was set up by the School Health Team at Public Health to help meet medical, dental, vision, medication and other needs of low-income children who otherwise may not have access to this care. The fund is used for school-aged children who fit eligibility guidelines set by the Team, as follows: children must reside in Catawba County; be enrolled in grades K-12; receive free or reduced lunch at school; and not be covered by health insurance, Medicaid or N.C. Health Choice. The KIN program receives private donations, small grants, funds from teacher assistants and other school staff, and several fundraisers throughout the year. In the current fiscal year, all funds donated or raised have been used for care to eligible children. Approximately \$16,000 is needed to meet the need for the remainder of the fiscal year. This need was projected in 2008 and, with current economic conditions, it is expected the amount needed will increase further before year end. The \$20,000 transfer will leave an approximate balance of \$21,000 in the restricted fund balance for future use. The following appropriations apply:

Supplemental Appropriations

580300-690100 Fund Balance Appropriated	\$20,000
580300-849170 Kids in Need-General	\$11,800
580300-849191 Kids in Need-Newton-Conover Schools	\$ 3,200
580300-849192 Kids in Need-Hickory Public Schools	\$ 1,000
580300-849193 Kids in Need-Catawba County Schools	\$ 4,000

b. A request for the Board to accept \$197,550 in new Preparedness/Bioterrorism funds from federal "stimulus" funds to provide financing for a mass vaccination campaign, if needed, to respond to an H1N1 flu pandemic outbreak and planning to enable Public Health to rapidly detect and respond to an H1N1 outbreak. On April 26, 2009, the Acting U.S. Secretary of Health and Human Services declared a public health emergency as a result of the detection of 20 known cases of swine-origin influenza A virus in the United States, now known as pandemic (H1N1) 2009 virus. Between April

24 and May 15, 2009, North Carolina's public health system responded to the identification of the virus. Since the spring of 2009, Catawba County Public Health has worked to assist in educating the public and providing information to assist in reducing the spread of the virus. Public Health continues to respond by providing the most current information to citizens and partnering with other providers to meet the vaccination needs and other needs of the community.

In light of the threat the pandemic poses to the nation's public health and security, Congress appropriated funding, through the 2009 Supplemental Appropriations Act, to prepare for and respond to an influenza pandemic. The State of North Carolina has appropriated \$197,550 to Catawba County Public Health to provide financial resources for implementing a mass vaccination campaign and related H1N1/pandemic-outbreak response activities; and support revised and expanded plans for activities that will enable Public Health to rapidly detect and respond to an H1N1 outbreak. No County funds are included in this budget revision. The following appropriations apply:

580300-628201 School Based Flu	\$ 32800
580300-841030 Printing/Binding	\$ 4000
580300-833010 Medical Supplies	\$ 2500
580300-870150 Minor IT	\$ 8000
580300-831030 Educational Supplies	\$ 1000
580300-812500 Part Time Wages	\$ 15000
580300-870100 Small Tools	\$ 800
580300-849090 Miscellaneous	\$ 1500

580410-628200 H1N1 Funds	\$164750
580410-841020 Education	\$ 5000
580410-870150 Minor IT	\$ 15000
580410-857900 Contracted Services	\$ 90750
580410-831030 Educational Supplies	\$ 26000
580410-833010 Medical Supplies	\$ 4000
580410-870100 Small Tools	\$ 20000
580410-841030 Printing/Binding	\$ 4000

c. A request for the Board to approve a tax refund request totaling \$48,647.16. Records have been checked and these refunds verified; therefore, the Tax Collector is asking for approval of the refund request. Under North Carolina General Statute 105-381, a taxpayer who has paid taxes may request a refund in writing for an amount paid through error.

Chair Barnes asked if any Commissioner wished to have an item broken out of the consent agenda and none were requested. Vice-Chair Lail made a motion to approve the consent agenda. The motion carried unanimously.

9. Departmental Reports.

NOTE THE FIRST DEPARTMENTAL REPORT BY UTILITIES AND ENGINEERING WAS PRESENTED AFTER RECOGNITION OF SPECIAL GUESTS.

B. SOCIAL SERVICES

Social Services Director John Eller presented the Board with the 2008-2009 Annual Report of the Catawba County Community Child Protection Team. The Team was established in February 1992 as the result of an order from the North Carolina Governor's Office. The State later mandated the creation of a Child Fatality Review Team, and the County elected to combine the two in 1995. The combined teams have met quarterly since their inception, except for specially called meetings. The Child Protection Team has the legal responsibility for reviewing cases of child fatalities when the family is known to the Department of Social Services and identification of areas in Protective Services needing improvement in order to maximize the safety of the community's children. The Child Fatality Team's purpose is to provide a multi-agency, multi-disciplinary approach to study cases of childhood death in Catawba County in order to attempt to reduce child fatalities.

The Community Child Protection/Child Fatality Team has proven to be an effective one, utilizing the systemic approach. The Team was active in FY 2008-2009 and discussed the following items:

1) The State Coordinator for the local Child Fatality Prevention Team (CFPT) gave an update to team members on North Carolina's Child Fatality Prevention System and some of the actionable recommendations that had come about as a result of the CFPT teams, such as the all-terrain vehicle safety law in 2005, requiring carbon monoxide detectors in rental property homes, and the Safe Surrender Law.

2) The Team addressed issues that affect its capacity to accurately assess risk and address the safety issues of children. It has been involved in recruiting and retaining resource families (foster and adoptive), conducting child and family team meetings, improving educational outcomes for children in foster care, strengthening kinship connections, and improving safety and risk assessments. Catawba County is one of 24 sites across the U.S. participating in a project to determine when a child should be returned to his or her family after being in foster care or with relatives. A result of this initiative is that Catawba County has placed 33% of children with relatives, as compared to the overall statewide rate of 18%.

3) The Team discussed opportunities to provide outreach and education regarding the "Period of Purple Crying", an outreach program that explains the appropriate care for infants and newborns to community service providers and the general public. There are three key elements that may be related to crying, such as shaking a baby. The goal is to reduce the incidence of shaken baby syndrome by 50% and educate the public that crying is normal and OK. It is a structured outreach to medical providers, to help instruct new parents on the normal, natural crying stints that infants go through at certain times. The program was implemented in both hospitals in Catawba County in April and May of 2008 and Catawba is one of the first counties in the state to have this program underway. The next phases will get information out to prenatal and postnatal community partners and include a media campaign which will include billboards, etc. across the state.

4) The team discussed substance abuse counseling for Public Health's prenatal patients. Prenatal patients who test positive on drug screening and consent to substance abuse counseling may receive counseling from Social Services' Family NET program. Also, the group discussed a medication treatment called "17 P". Women who have had an issue in the past with a pre-term pregnancy are offered this drug in Public Health's prenatal clinic. Catawba County Public Health has experienced a 64% success rate (patients who received the treatment and made it to full term and delivered a baby). The infant mortality rate for North Carolina had dropped from 8.5% to 8.2%. The rate in Catawba County dropped from 8.1% in 2007 to 6.4% in 2008. The minority rate is still higher than the Team would like to see, but that rate has also continued to drop.

5) The Team participated in a State Fatality Review with the North Carolina Division of Social Services. This intensive review came about as a legislative process and its focus was to look at child fatalities in the State and see how the State would respond to those fatalities. State law requires that, if a death occurred and there had been DSS involvement within 12 months preceding the fatality, an intensive review is conducted. The purpose is to look at all systems involved in order to see what could have possibly been done differently.

6) The Team discussed the Catawba County Substance Abuse Coalition, a part of the Catawba County Health Partners program, and the Coalition's use since 2001 of the "Keys to Life Program" through the Governor's Highway Safety Program. The concept of this program is to show high school students the impact of alcohol abuse. National statistics show that, every 15 minutes, someone is killed or injured in an alcohol related automobile crash. In a school where the program is being presented, a bell will toll every 15 minutes throughout the day and the PA system will announce that a student has passed away. The "grim reaper" will show up at the student's classroom and take them out of the class. Their face will be painted and they will put on a black tee shirt and be sent back to the classroom. An obituary will be read for that student and they can no longer talk to anyone for the rest of that day. An accident scene will be set up and the students will go outside to see what an alcohol related accident may look like. This program is very impactful and

takes a lot of manpower and planning, but the Team hopes to eventually be able to offer this to all three school systems.

7) The Team discussed issues surrounding the downturn in the economy and the impact on Child Protective Services. Increases in alcohol and substance abuse were noted, in addition to there being more families struggling to afford medications.

8) The Team discussed mental health changes that may affect child protection and prevention. The North Carolina General Assembly recently passed legislation that will phase elimination of mental health community support services. Community support services provide case management services to children who need higher levels of care, residential treatment and placement services, and/or have multiple needs that need to be tracked and navigated through the mental health system. The local impact is expected to be reflected in higher demands in the criminal justice system and in emergency rooms, as people seek care there as opposed to other places.

9) The Team looked at domestic violence issues and the overlap among domestic violence and child protective services. About 13% of cases reported in 2009 involved domestic violence. Three women in Catawba County died in 2009 as a result of domestic violence. Some significant changes in legislation have had an impact on the effectiveness of interventions in domestic violence situations. A State task force is now working to provide better assessment tools. One of the challenges in domestic violence situations is accurately capturing domestic violence charges. There are several different kinds of criminal charges that can be brought in association with domestic violence that are not limited to assault on a female, including communicating a threat, interfering with emergency communication, strangulation and assault in the presence of a minor. In domestic violence situations, caution is taken not to blame the victim so as not to re-victimize them. Those responding recognize that children may experience a different impact if they actually witness the violence or are exposed to the aftermath. There is a specific court in Catawba County that handles domestic violence cases.

10) The group also discussed the Children's Agenda Planning Committee, a core group appointed by the Board of Commissioners to develop a comprehensive strategic agenda or plan around children's issues, aimed at improving the lives of children in Catawba County. This group provided a child data snapshot on factors related to well-being seen in Catawba County that could be benchmarked against state and federal data. The group surveyed children and families about what they feel was the best thing about living in Catawba County and focused on some of the things that need improvement. From this survey, the committee chose five focus areas: safety and security (fear from gangs and crime, desire for a safe place to play); basic needs (jobs, housing, transportation, interpreters); education and preparation for work (focus on drop-out prevention, career preparation, job training and financial education); quality of life (focus on issues of interconnected neighborhoods, social networking, places to meet, technology and the diversity issues in the community) and healthcare (includes dental, preventative care, mental health, medical access, insurance coverage and health services in schools).

Commissioner Barger made a motion to accept this report. The motion carried unanimously.

10. Other Items of Business: None.

11. Attorneys' Report:

County Attorney Debra Bechtel updated the Board on the litigation involving the appeal of the Interbasin Transfer (IBT). She recommended the Board join with other local governments across the region in approving an agreement with the cities of Concord and Kannapolis to resolve the appeal of the Interbasin Transfer (IBT) granted Concord and Kannapolis by the State of North Carolina. The agreement established significant reductions in the amount of water that could be transferred out of the Catawba River during drought conditions. The main points of the agreement hinged on Concord and Kannapolis modifying their ability, contained in their IBT certificate, to withdraw 10 million gallons of water per day (MGD) from the Catawba River at all times by significantly limiting withdrawals during times of drought. The agreement limits withdrawals to 6

MGD during times of most severe drought, or “exceptional” drought; 7 MGD during “extreme” drought; 8.5 MGD during “severe” drought; and 9 MGD during “moderate” drought. Further, the agreement restricts Concord and Kannapolis from withdrawing more than 3 MGD from the Catawba until July 1, 2015, and after they first are withdrawing 5 MGD from the Yadkin River. Commissioner Hunsucker made a motion to adopt the proposed resolution and authorize Chair Barnes to sign the settlement agreement. The motion carried unanimously. The following Resolution and Agreement apply:

RESOLUTION NO: 2010-01
RESOLUTION OF CATAWBA COUNTY
AUTHORIZING APPROVAL OF SETTLEMENT OF CONTESTED CASE: COALITION TO
PROTECT THE CATAWBA VS.
N.C. ENVIRONMENTAL MANAGEMENT COMMISSION

WHEREAS, in response to the request by the cities of Concord and Kannapolis, North Carolina for a certificate authorizing the interbasin transfer (“IBT”) from the Catawba River, Catawba County joined together with other local governments in North and South Carolina in forming the Protect the Catawba Coalition (“Coalition”) monitoring and expressing concern regarding the IBT request; and

WHEREAS, after the North Carolina Environmental Management Commission (“EMC”) granted the requested IBT to Concord and Kannapolis, the Coalition and its member local governmental entities authorized the filing of a Petition for Contested Case Hearing (“Petition”) with the North Carolina Office of Administrative Hearings (“OAH”) challenging the IBT (the “Appeal”); and

WHEREAS the Coalition and its members are dedicated to taking all necessary actions to protect the Catawba River and its environment and water users, including our citizens, and to that end have been actively pursuing the Appeal and also successfully secured the amendment of the North Carolina law governing the issuance of future IBTs, in order to protect the Catawba River and its water users, including our citizens and businesses; and

WHEREAS, based on the fact that the Appeal process contemplates that parties should consider mediation of the issues in any appeal, representatives of the Coalition participated in a multi-day mediation of the Appeal with the Catawba Riverkeeper and representatives of the other parties in the Appeal, which mediation resulted in a tentative settlement agreement embodied in a proposed settlement agreement; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba River by Concord and Kannapolis during times of drought; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba by limiting withdrawals from the Catawba until Concord and Kannapolis have taken sufficient actions to withdraw at least half of their allowed withdrawal from the Yadkin River; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba by requiring Concord and Kannapolis to engage in stringent water conservation measures as a condition of their withdrawals; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by imposing additional conditions and restrictions on Concord and Kannapolis and their use of the water from the Catawba, including provisions regarding pricing, sale and resale, measurement, reporting and other provisions designed to ensure that the settlement accomplishes its purposes; and

WHEREAS the proposed settlement agreement explicitly provides a private right to monitor and enforce its terms and conditions by the Coalition and any Coalition member signatory, including the right to stipulated daily monetary penalties in the event of default; and

WHEREAS the proposed settlement agreement, through its terms and conditions, provides protections and assurances to the Coalition and its member entities that would not have been available through a pursuit of the Appeal, due to the nature of the IBT appeal process.

NOW, THEREFORE, BE IT RESOLVED that Catawba County approves of the terms of the proposed settlement agreement and authorizes its execution and implementation on its behalf as a member of the Coalition, subject to execution of the proposed settlement agreement by Concord and Kannapolis and the Catawba Riverkeeper; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that counsel for the Coalition, Hunton & Williams LLP, is hereby authorized: (a) to sign the settlement agreement on behalf of Catawba County in a form approved by the Catawba County Board of Commissioners or the County Attorney on its behalf individually and as a member of the Coalition, (b) to file appropriate documents at OAH to withdraw and dismiss the Appeal; and (c) to take such other actions as are reasonable and necessary to implement the settlement agreement in the form approved.

This Resolution is effective upon its adoption this the ____ day of _____, 2010.

December 16, 2009

This is an AGREEMENT TO SETTLE AND RELEASE OF CLAIMS (the "Agreement") made and entered into this ____ day of _____, 2010, by and between the Catawba Riverkeeper Foundation, Inc. ("Riverkeeper") and the Protect the Catawba Coalition and its member entities ("Coalition") as Petitioners (collectively, "Petitioners") and the Cities of Concord and Kannapolis ("the Cities") as Respondent-Intervenors in a contested case proceeding before the North Carolina Office of Administrative Hearings, captioned *Protect the Catawba Coalition and its Member Entities, and the Catawba Riverkeeper Foundation, Inc., v. the Environmental Management Commission, et al., 07 EHR 0476, 07 EHR 0480* (the "Contested Case"). By this Agreement, the undersigned settling Cities and Petitioners (collectively the "Parties") mutually agree to compromise, settle, and dismiss with prejudice the Contested Case upon fulfillment of all terms and conditions set forth below.

WITNESSETH:

WHEREAS, the Cities submitted an Inter-basin Transfer ("IBT") Petition to the Environmental Management Commission ("EMC") in November 2004; and

WHEREAS, on January 25, 2007, the EMC signed a certificate, authorizing the Cities to transfer 10 million gallons of water per day from the Catawba River basin and 10 million gallons of water per day from the Yadkin River Basin, to the Rocky River sub-basin (the "IBT Certificate"); and

WHEREAS, on March 26, 2007, the Coalition filed a Petition for a Contested Case Hearing in the North Carolina Office of Administrative Hearings challenging the EMC's issuance of the IBT Certificate, followed by the Riverkeeper filing a separate Petition for Contested Case Hearing on March 29, 2007, challenging the same IBT Certificate, and those actions were later consolidated and captioned *Protect the Catawba Coalition and its Member Entities, and the Catawba Riverkeeper Foundation, Inc. v. the Environmental Management Commission, et al., 07 EHR 0476, 07 EHR 0480* (the "Contested Case"); and

WHEREAS, the Cities sought and were granted leave to intervene in the Contested Case by Order dated April 11, 2007; and

WHEREAS, the Cities and Petitioners now desire to compromise and settle the issues between them in the Contested Case;

NOW, THEREFORE, in consideration of the promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Petitioners and Cities agree to compromise, settle, and dismiss with prejudice all claims and causes of action arising in the Contested Case upon fulfillment of all terms and

conditions set for below:

1. The Cities' Obligations. The Cities shall:

A. Modified IBT Certificate. In the event the Cities reopen the Certificate for any other modification, they shall also request that the EMC add an addendum to the Certificate that incorporates the provisions of 1(B) ("Withdrawal Plan and Schedule"), 1(F) ("Drought Restrictions"), and 1(J) ("Prohibition on IBT Requests") of this Agreement at the time the Certificate is reopened. The Parties agree that in the event of a conflict between this Agreement and the Certificate and its attachments and addendum (together, the "Modified Certificate"), the more stringent provision shall apply so long as it does not violate any law or rules. The Parties agree that in the event such an addendum is issued by the EMC, all other portions of this Agreement not memorialized in the Modified Certificate are and remain enforceable.

B. Withdrawal Plan and Schedule. Until July 1, 2015, the Cities shall transfer no more than three-million (3,000,000) gallons of water in any day from the Catawba River Basin. Beginning July 1, 2015, the Cities shall limit their transfer of water from the Catawba River Basin to three million (3,000,000) gallons of water in any day until such time as they are transferring five million (5,000,000) gallons in any day from the Yadkin River Basin. In addition the following limitations on withdrawals from the Catawba River Basin only shall apply during droughts:

LIP STAGE or DMAC

Drought Stage/

Maximum Day Withdrawals

in Million Gallons per Day

("MGD")

0 / Abnormally Dry 10.0

1 / Moderate Drought 9.0

2 / Severe Drought 8.5

3 / Extreme Drought 7.0

4 / Exceptional Drought 6.0

Before initiating a new transfer the Cities shall notify the Petitioners of the locations and suppliers from which water to be transferred will be purchased or withdrawn. Prior to construction of any pipeline directly connecting to any water system or intake through which water to be transferred is obtained, the Cities shall prepare an environmental document compliant with the North Carolina Environmental Policy Act and shall publish notice as provided in N.C.G.S. 143-215,22L and (c) (1) and (2), and hold public hearings in each county in which such intake or system connection is located.

C. Water Conservation Measures. Implement water conservation and wateruse efficiency programs and practices for at least thirty years following the execution of this Agreement that are at least as stringent as the following:

i. Within two years of the date of this agreement, charge retail residential water rates to Cities' customers that are higher than the comparable rate charged by the municipal, county, or other water system from which water is to be purchased or obtained under the IBT Certificate.

ii. Within 90 days of dismissal of the IBT litigation, the City of Concord will adopt and maintain three levels of pricing for water, calculated to achieve at least a 25% reduction in water use over the base level of consumption for retail residential customers by methods including, but not limited to, billing customers monthly in gallon increments: 1) A base price for typical residential customers who use up to 7,000 gallons of water per month, and 2) two higher tiers above the first tier. An additional charge during drought conditions will be applied to the two higher tiers and/or the total gallons per month in the tiers may be reduced. Irrigation will be charged at the rate for the highest tier. The City of Kannapolis will adopt and maintain two levels of pricing for water, calculated to achieve at least a 25% reduction in water use over the base level of consumption for retail residential customers, within one year of the date of this agreement, by methods including, but not limited to, billing customers monthly in gallon

increments: 1) A base price for typical residential customers that use up to 7,000 gallons of water per month and 2) a second tier above the first tier. The base level for both Concord and Kannapolis shall be the year 2000.

iii. The Cities shall meter separately the Cities' water used by new industrial customers for irrigation. All irrigation users shall be charged the highest rate for water.

iv. The Cities will institute a metering and sub-metering program that requires the installation of new meters that can be read electronically or remotely on all new apartment buildings.

v. The City of Concord will implement a tiered rate structure for its stormwater utility fees. Property owners below the median threshold of impervious surfaces known as the equivalent runoff unit (ERU) will be billed a lesser utility charge. ERU is defined as "the median of impervious surface on single family developed land in the City". Residential customers shall either be billed at a higher rate if their property contains 5,507 square feet of impervious surface area or more, or shall be billed at 1.8 times the base rate. The City of Concord may modify both the multiplier (1.8) or the impervious surface square footage (5,507) provided the total amount of stormwater utility fees collected does not decrease below the amount collected from residential properties in 2008. Nonresidential properties will be billed at 1 ERU rate per month for each 3,120 square feet of impervious surface area. Concord will provide a further reduction in stormwater utility fees to those customers who provide stormwater quality treatment and/or storage above and beyond that required by Ordinance and NPDES Phase II Stormwater Discharge Permit ("NPDES Phase II Permit). The City of Kannapolis currently has in place a tiered rate structure for stormwater utility fees. Property owners below the mean threshold of impervious surface and the equivalent runoff unit will be billed at a rate below the base utility rate. Those above the ERU (3,250 square feet of impervious surface area) will be billed more than the base rate. Nonresidential properties in Kannapolis will be billed 1 ERU per month for each 3,250 square feet of impervious surface. Kannapolis will allow for reduction of commercial stormwater utility fees where customers have implemented water quality and detention features on their sites.

vi. Prohibit any development not in accordance with the Cities' respective water supply watershed ordinances (as they may be amended from time to time to be in compliance with the General Statutes) and NPDES Phase II Permits in the critical area around the reservoirs owned and managed by the Cities. Recreational uses of the water and the land within 300 feet of the water in the reservoirs owned and managed by the Cities shall not be allowed, except for Lake Fisher and Lake Kannapolis.

vii. Retain current or "functionally equivalent" stormwater restrictions for permitting and building in all new development, which exceed the required NPDES Phase II Permit restrictions. "Functionally equivalent" is limited to restrictions that are at least as stringent as current stormwater restrictions.

viii. Enforce water use restrictions during times of drought (including restrictions meeting the stringency requirements described below in paragraph F) 24 hours every day using appropriate local enforcement officials. Adopt and enforce City ordinances for non-compliance with water use restrictions to mandate monetary penalties for all water users.

ix. Fund at least one full time environmental education professional in each of the Cities focusing on environmental issues including at least a 50% time allocation specifically on surface and storm water quality, water conservation and water use.

x. Install only "high efficiency toilets" (currently defined by EPA as toilets that use 1.28 gallons per flush or less), waterless or water efficient urinals, low-flow shower heads, water efficient appliances and water efficient faucets in all new City-owned facilities and retro-fit all toilets and faucets in existing Cityowned

facilities with high efficiency toilets, waterless or water efficient urinals and water efficient faucets (or devices that restrict water use to an equivalent level) within two years of the conclusion of all proceedings challenging the IBT Certificate, where practicable (meaning not to include situations in which the building is to be abandoned or de-commissioned within five years of conclusion of the proceedings challenging the IBT Certificate or where the removal of walls and/or floors is necessary in order to accomplish the retrofit). The Cities will encourage the installation of high efficiency toilets, waterless or water efficient urinals, faucets, and shower heads, water-efficient appliances, leak detection kits, and other water efficiency measures in properties built before 1994 by methods including but not limited to: (1) making a written proposal to Cabarrus County's Department of Building Inspections to make these water efficiency measures a requirement of a certificate of occupancy, (2) offering a credit of at least \$50 for proof of installation of WaterSense-certified and high efficiency toilets for 10 years from the date of this agreement, and (3) making a written proposal to the Cabarrus County Board of Commissioners to amend related development ordinances to require such water efficiency measures.

xi. Institute a leak detection and abatement assessment that uses the American Water Works Association ("AWWA") audit or another audit equivalent to AWWA standards to identify water loss in Cities' facilities and create or supplement an on-going, active leak detection staff to consistently identify leaks, prioritize repair and repair leaks.

xii. In the Cities' development ordinances, offer attractive incentives for the use of non-water-intensive (xeric) plants in required landscape plans. Amend the Cities' development ordinances to prohibit the use of both irrigation and water intensive (hydrophilic) plants in required landscape plans, except where irrigation and hydrophilic plants are required to establish stormwater "best management practices" such as rain gardens and detention ponds or other practices necessary or required to protect water quality. The development ordinances shall be amended to clarify that any requirement to irrigate landscaping made applicable by a declaration of restrictions or covenants is discouraged and shall not be valid or enforceable to the extent it is prohibited by water conservation measures applicable to the Cities, including those imposed by the Governor, a State agency or local government except for those described in the previous sentence. Implement xeriscaping, where practicable, at all existing Cities' facilities where irrigation with potable water is currently utilized within three years of the date of this agreement. The Cities are not required to ban botanical or research gardens or farms that do not use potable water.

xiii. Expand water efficiency requirements and regulations for new developments in the Cities, including, but not limited to, requiring rainwater catchment devices or systems for all new development (except for low density developments as defined in the Cities NPDES Phase II Permits). "New development" is any development disturbing an acre or more of land, including developments of less than one acre that are a part of a larger plan of development, except for developments in the Concord municipal service district (as shown on Exhibit A) or the Kannapolis Downtown District, (starting with the Loop Road going to the underpass down South Ridge Ave. to Dale Earnhardt Blvd and back around to the loop at West A Street as shown on Exhibit B). The Cities will also encourage the use of gray water systems in new developments, and will encourage rainwater catchment to comply with low-impact development standards as defined herein and encourage gray water systems in existing developments by offering rain barrels and other such equipment to customers at cost.

xiv. Implement and support water reuse systems, by proposing and supporting the Water and Sewer Authority of Cabarrus County's construction of

one or more wastewater treatment facilities that produce and distribute reclaimed water for municipal and/or industrial irrigation. Adopt “low impact development standards” (defined as standards that promote the goal of maintaining and enhancing the pre-development hydrologic regime of urban and developing watersheds) in the Cities’ development ordinances. In the event that either of the Cities propose to implement amendments to their adopted low impact development standards or to implement measures, regulations or policies in lieu of the above enumerated measures, regulations or policies, or to grant any exception to the foregoing measures, regulations or policies, the Party initiating the change shall inform the other Parties in writing before implementing such change.

D. Limits on Water Line Approvals. At any time that any Vendor Jurisdiction in the Catawba River Basin is in a exceptional drought (as determined by the U.S. Drought Monitor) and adopts a moratoria on new water line approvals, then the Cities will likewise institute and/or continue moratoria on new water line approvals upon actual knowledge of, or being provided accurate information verifying, the drought status and moratoria ordinances of the Vendor Jurisdictions. (Vendor Jurisdiction is a public water supply system or municipality, county from which the Cities are transferring water under the IBT Certificate.) The Cities will also work with Cabarrus County to institute a moratorium on new developments requiring an extension of water lines during Cityadopted moratoria.

E. Reservoir Use. To the extent practicable, the Cities will transfer or withdraw finished water during times of higher-than-average rainfall in order to facilitate the filling of available reservoir space and reduce, to the extent practicable, the amount of water transferred during times of lower-than-average rainfall. The Cities will also conduct a water supply study to explore the feasibility of creating a stormwater catchment and reuse system and tank storage capacity within 10 years of the date of this agreement.

F. Drought Restrictions. The Cities, before purchasing, transferring, or withdrawing any water under the IBT Certificate, will themselves – and will require through their respective water sale agreements that the public water systems owned and operated by cities or counties to which they provide water – institute and enforce drought measures that equal or exceed the most stringent of the following measures, including specific compliance with any Low Inflow Protocol included in any Federal Energy Regulatory Commission license for the Catawba and/or Yadkin Rivers:

- i. Those measures implemented by the Vendor Jurisdiction from which the Cities are then withdrawing water under the IBT Certificate, provided that the Vendor Jurisdiction or any of the Petitioners informs Cities of such drought restrictions; or
- ii. The default water use reduction measures contained in 15A N.C. Admin. Code 02E.0612 to .0615 or otherwise codified pursuant to 143 N.C. Gen. Stat. § 143-354, or
- iii. Those measures listed at page 29, Paragraph 2, and Attachment A of the existing IBT Certificate.

G. Reporting Requirements and Actual Metered Usage. The Cities will post on their respective web sites the reports provided to the Division of Water Resources as required on page 30, Paragraph 4 of the IBT Certificate, as well as reports on the Cities’ compliance with this Agreement. In addition, the Cities agree that Petitioners shall have the right to inspect those water meters measuring all transfers made under the IBT Certificate or Modified Certificate upon giving the Cities notice 48 hours before the requested time of inspection.

H. Limitation on Resale. The Cities shall not sell, resell, transfer, or exchange the water to any other public water supply system outside the service area unless contractually obligated to do so by a regional water supply arrangement predating the grant of the initial IBT Certificate or required by any legal decision, statute,

mandate or rule. The Cities shall consider a ban on non-emergency water supplies on new customers outside their service areas in Cabarrus County and southern Rowan County as described in the IBT Petition (See Exhibit C attached hereto). The City Councils for each City shall consider such a ban at a regular meeting, shall give notice to the public in the required manner, and shall give written notice to Petitioners and allow them an opportunity to address the Councils at the meetings. Nothing in this Agreement will be interpreted to interfere with the Cities' existing water supply contracts.

I. Participation in Catawba-Wateree Water Management Group. The Cities will seek full participatory and voting membership, and if granted, participate within the Catawba-Wateree Water Management Group, the voluntary group of water users in the Catawba River Basin that pay dues and that identify and manage projects that help preserve, extend, and enhance the capabilities of the Catawba River reservoir system.

J. Prohibition on New IBT Requests. During the 10 year period after the effective date of this Agreement, the Cities agree that they will not seek to request any further and additional withdrawals beyond those described in the Modified Certificate and this Agreement.

2. Petitioners Obligations. Petitioners shall:

A. Dismissal. Petitioners shall file and enter a Voluntary Dismissal with Prejudice of Petitioners' Contested Case within one week of receiving notice that all Parties have approved and signed the Agreement. Petitioners further agree that they shall not file or participate in any other legal or administrative action challenging the IBT Certificate or the IBT that it approves, provided that this provision shall not prohibit Petitioners from participating in any action regarding non-compliance with the terms of the IBT Certificate or this Agreement or in any action otherwise involving the apportionment of the Catawba-Wateree River or the Yadkin-Pee Dee River among users, including without limitation, that the Petitioners may participate in the lawsuit captioned *South Carolina v North Carolina*, No. 0138. (U.S. S. Ct.) as intervenors or amici curiae provided that they shall not directly advocate for the reduction or elimination of the IBT at issue in this case. That Parties agree that they will instruct their employees and officials not to lobby in favor of or otherwise support in their official capacity proposed legislation (or a provision in proposed legislation) for which the primary purpose is to invalidate the IBT Certificate or the IBT that it approves, provided that this provision shall not prevent or prohibit any Parties' employees, officials, members, donors, citizens and other representatives from exercising their individual First Amendment rights regarding those matters, and provided that it does not prohibit the Parties from supporting or otherwise commenting on legislation of general applicability, including bills regarding water allocation, interbasin transfers, or other similar matters provided that in doing so they clarify that they are not supporting any provisions for which the primary purpose is to invalidate the IBT certificate or the IBT that it approves.

B. Information. Provide all information on drought, moratoria and other information listed above to the Cities on a timely basis.

3. Binding Nature of Agreement. This Agreement shall be binding upon the Petitioners and the Cities, and their successors and assigns, upon its execution by all parties.

4. Assignment. None of the Parties shall assign any of their rights or obligations under this Agreement without the prior written consent of all other Parties.

5. Attorney's Fees, Costs, and Expenses. The Parties agree to bear their own attorney's fees, costs, and other expenses that have been incurred in connection with any stage of the contested case.

6. Notice and Resolution of Violations of Agreement. The remedies described in this paragraph shall be the sole remedies for violations of this Agreement and shall not impair any other rights of any other party to this Agreement. If any Party ("Complaining Party") believes that another Party has failed to satisfy an obligation under this Agreement or is otherwise in violation of this Agreement, the Complaining Party must notify all other Parties of that belief within thirty days of discovering the violation. Such notice must be in writing and must contain sufficient detail to allow the allegedly non-complying Party to correct the violation. The non-complying Party must either correct the violation within one hundred twenty days of the

date such written notice is given, or give written notice within thirty days as to why it is not in violation. Upon first notice of violation, and failure to remedy within one hundred twenty days or to challenge the notice within 30 days, the non-complying Party will pay to the Complaining Party liquidated damages in the amount of \$2,500 per day of non-compliance (beginning with the 121st day), until the violation is remedied. If the alleged non-complying Party challenges the notice of violation, and the matter is not resolved by Inter-Party discussions within 60 days, then the Parties consent to non-binding mediation to occur within an additional 60 days to be conducted in the City of Charlotte, NC, unless all Parties consent to a different location. The prevailing Party shall be awarded attorney fees, and in the event the non-prevailing Party violated the Agreement, liquidated damages of \$2,500 per day from the 121st day following the receipt of the notice of violation by the non-complying Party, provided that the total shall not exceed \$50,000, which amount shall constitute the maximum amount of liquidated damages for the violation.

7. Notices. All notices required or permitted hereunder shall be in writing, and shall be deemed given on the date received if hand delivered, or delivered by courier or overnight or express mail or package delivery; or two days after postmarked if sent by U.S. mail, postage prepaid, certified or registered, return receipt requested, and addressed to the following individuals:

To Respondent-Intervenors the Cities:
Concord City Manager
PO Box 308
26 Union St. S.
Concord, NC 28026-0308

Kannapolis City Manager
PO Box 1199
246 Oak St.
Kannapolis, NC 28082

Concord Water Resources Director
PO Box 208
30 Market St.
Concord, NC 28026-0308

Kannapolis Public Works Director
PO Box 1199
Kannapolis, NC 28082

Concord City Attorney
PO Box 308
30 Market St.
Concord, NC 28026-0308

Walter M. Safrit II, City Attorney
Rutledge Friday Safrit and Smith
PO Box 24
1910 Dale Earnhardt Blvd.
Kannapolis, NC 28082

To Petitioner Catawba Riverkeeper Foundation, Inc.:
Julia Youngman & Chandra Taylor
Southern Environmental Law Center
200 West Franklin Street, Suite 330
Chapel Hill, NC 27516

And

Richard Gaskins or then current Executive Director
David Merryman or then current Catawba Riverkeeper
Catawba Riverkeeper Foundation, Inc.
421 Minuet Lane, Suite 205
Charlotte, NC 28217

To Petitioner the Protect the Catawba Coalition:
Charles Case & Matthew Hanchey
Hunton & Williams LLP
One Bank of America Plaza, Suite 1400, 421 Fayetteville Street
P. O. Box 109
Raleigh, NC 27602

To local government Coalition members (petitioners and petitioner-intervenor):

Local government entity: _____

Person/Position to receive notice: _____

Mailing address for notice: _____

Second Person/Position to receive notice: _____

Mailing address for that 2nd notice: _____

8. Governing Law and Interpretation. This Agreement shall be governed and conformed in accordance with the laws of the State of North Carolina without regard to the conflict of laws provisions of North Carolina or any other state, and any provision herein that violates a statute or rule shall be void and unenforceable. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision; the invalid or unenforceable provision shall be stricken, without assessing damages or imposing penalties to either Party arising out of said provisions by any court of competent jurisdiction.

9. Headings. The headings used in this Agreement are for convenience of reference only and shall in no way define, limit, expand or otherwise affect the meaning of any provision of this Agreement.

10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11. Amendment. This Agreement may not be modified, altered or changed except in a written document that is signed by all Parties and that makes specific reference to this Agreement.

12. Entire Agreement. This Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreements or understandings between the Parties.

13. Review and Signing. By executing this Agreement, each Party represents that it has reviewed this Agreement, that the Party has had the opportunity to discuss and has discussed the terms of this Agreement with the Party's attorneys, that each of them has had a full and fair opportunity to review and understand this Agreement, that the terms of the Agreement shall not be construed more favorably or less favorably by or against either of the Parties, and that each Party has voluntarily executed this Agreement. Each Party and counsel for each Party has reviewed this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction requiring resolution of ambiguities against the drafting party.

14. No Further/Other Representations. Each Party hereby warrants that it has not relied and does not rely on any representations, other than those expressly stated herein, about any facts or about the nature or extent of any claims, demands, damages, or rights that it may have against the other Party. Other than those expressly stated herein, no representations have been made to the Parties or to anyone acting on their behalf to induce them to enter into and execute this Agreement and they rely on no such representations in entering this Agreement. The Parties to this Agreement expressly assume any and all risks that the facts and law may be or

become different from the facts and law as known to, or believed to be, by the Parties as of the date of this Agreement.

IN WITNESS WHEREOF, the Cities and Petitioners have executed this Contingent Agreement as of the day and year first written above.

12. Manager's Report:

County Manager J. Thomas Lundy requested the Board consider moving into closed session pursuant to General Statute 143-318.11(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege; 143-318.11(4) to discuss matters related to the location or expansion of industries or other businesses in the area served by the public body and 143-318.11(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee. Mr. Lundy did not anticipate any action to be taken by the Board upon return to Open Session. Commissioner Hunsucker made a motion to move into closed session at 8:05 p.m. The motion carried unanimously.

13. Adjournment: The Board returned to open session at 9:15 p.m. Commissioner Hunsucker made a motion to adjourn. The motion carried unanimously.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk